

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REX CHAPPELL,

Plaintiff,

No. CIV S-04-1183 LKK DAD P

vs.

C.K. PLILER, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights complaint seeking relief under 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to the undersigned magistrate judge in accordance with Local Rule 72-302 and 28 U.S.C. § 636(b)(1).

In response to court orders filed June 24, 2004, and July 12, 2004, plaintiff submitted a properly completed application to proceed in forma pauperis. The application filed July 26, 2004, makes the showing required by § 1915. Plaintiff's request for leave to proceed in forma pauperis will therefore be granted.

Plaintiff is required to pay the statutory filing fee of \$150.00 for this action. See 28 U.S.C. §§ 1914(a) (prior to amendments effective in 2005) and 1915(b)(1). An initial partial filing fee of \$10.61 will be assessed by this order. See 28 U.S.C. § 1915(b)(1). By separate

1 order, the court will direct the appropriate agency to collect the initial partial filing fee from
2 plaintiff's prison trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will
3 be obligated for monthly payments of twenty percent of the preceding month's income credited
4 to his prison trust account. These payments will be forwarded by the appropriate agency to the
5 Clerk of the Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee
6 is paid in full. See 28 U.S.C. § 1915(b)(2).

7 Plaintiff's complaint appears to state cognizable claims for relief pursuant to 42
8 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations of the complaint are proven, plaintiff
9 has a reasonable opportunity to prevail on the merits of this action.

10 In accordance with the above, IT IS HEREBY ORDERED that:

11 1. Plaintiff's July 26, 2004 application to proceed in forma pauperis is granted.

12 2. Plaintiff is obligated to pay the statutory filing fee of \$150.00 for this action.

13 Plaintiff is assessed an initial partial filing fee of \$10.61. All fees shall be collected and paid in
14 accordance with this court's order to the Director of the California Department of Corrections
15 filed concurrently herewith.

16 3. Service is appropriate for the following defendants: C.K. Pliler, T. Rosario,
17 S. Stiles, T. Goughnour, and S. Vance.

18 4. The Clerk of the Court shall send plaintiff five USM-285 forms, one summons,
19 an instruction sheet, and a copy of the complaint filed June 21, 2004.

20 5. Within thirty days from the date of this order, plaintiff shall complete and sign
21 the attached Notice of Submission of Documents and shall submit all of the following documents
22 to the court at the same time:

23 a. The completed, signed Notice of Submission of Documents;

24 b. One completed summons;

25 c. One completed USM-285 form for each defendant listed in number 3
26 above; and

1 d. Six true and exact copies of the endorsed complaint filed June 21,
2 2004.

3 6. Plaintiff shall not attempt service of the complaint and summons on defendants
4 or request waivers of service of summons. Upon receipt of the above-described documents, the
5 court will direct the United States Marshal to serve the defendants pursuant to Federal Rule of
6 Civil Procedure 4 without payment of costs.

7 DATED: January 5, 2006.

8 
9 _____
10 DALE A. DROZD
11 UNITED STATES MAGISTRATE JUDGE

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Defendants.

NOTICE OF SUBMISSION
OF DOCUMENTS

_____/

Plaintiff hereby submits the following documents in compliance with the court's
order filed _____:

- _____ one completed summons form;
- _____ five completed USM-285 forms; and
- _____ six true and exact copies of the complaint filed June 21, 2004.

DATED: _____.

Plaintiff